#### **BEFORE**

## THE PUBLIC SERVICE COMMISSION OF

### SOUTH CAROLINA

DOCKET NO. 2002-140-C - ORDER NO. 2002-576

# AUGUST 14, 2002

IN RE:	Application of Metro Teleconnect	)	ORDER GRANTING
	Companies, Inc. for a Certificate of Public	)	CERTIFICATE FOR
	Convenience and Necessity to Provide Resold	)	LOCAL AUTHORITY
	Local Exchange Telecommunications	)	AND FLEXIBLE
	Services and for Flexible Regulation.	)	REGULATION

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Metro Teleconnect Companies, Inc. ("Metro Teleconnect" or the "Company") requesting a Certificate of Public Convenience and Necessity to provide facilities-based and resold local exchange telecommunications services throughout the State of South Carolina. In addition, the Company requests that the Commission regulate its local service in accordance with the principles and procedures established for flexible regulation by Order No. 98-165 in Docket No. 97-467-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280(B) (Supp. 2001) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed Metro Teleconnect to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Metro Teleconnect complied with this instruction and

provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on May 9, 2002.

On July 2, 2002, counsel for SCTC filed with the Commission a Stipulation in which Metro Teleconnect stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Metro Teleconnect provided written notice of its intent prior to the date of the intended service. Metro Teleconnect also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Metro Teleconnect agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to Metro Teleconnect to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on July 17, 2002, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Mignon Clyburn, Chairman, presided. Metro Teleconnect was represented by Faye A. Flowers, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Patrick P. Smith, Director of Agent

Relations and part owner of Metro Teleconnect, appeared and testified on behalf of the Company.

Mr. Smith described the nature of Metro Teleconnect's proposed service offering within the State of South Carolina and provided testimony regarding Metro Teleconnect's financial, managerial, and technical ability to provide telecommunications services in South Carolina. The record reveals that Metro Teleconnect is a Pennsylvania corporation that has received authority to transact business within the State of South Carolina. Mr. Smith testified that the Company is currently certificated and is operating in twenty-four states plus Puerto Rico and the District of Columbia.

The Company intends to offer facilities-based and resold local exchange telecommunications services through the UNE-P platform to residential customers throughout the State of South Carolina. The record reveals that Metro Teleconnect initially plans to provide a full range of local telecommunications services to residential customers. The Company intends to offer prepaid local services via resale. According to the testimony, Metro Teleconnect provides, for a fixed fee, unlimited local calling and access to 911 and 800 services. According to the testimony, the majority of Metro Teleconnect's customers tend to be individuals who are unable to obtain telephone service elsewhere because of credit problems or delinquent payment histories. According to the record, Metro Teleconnect will not be performing consumer credit checking or application screening. The record also stated that Metro Teleconnect controls costs by not permitting its customers of its local service to access usage-based services, such as direct

dialed long distance calls, collect calls, operator assisted calls and third number billed calls.

Regarding the Company's marketing of its services in South Carolina, Mr. Smith testified that Metro Teleconnect intends to market its services through television advertising that provides the Company's toll-free 800 number to prospective customers. He said the Company has a staff of 35-45 customer service representatives who take the calls from 9:00 a.m. until 6:00 p.m. Eastern Standard Time daily. Additionally, he testified that Metro Teleconnect will sell its services via a network of established storefront retailers statewide who function as independent customer registration and collection centers. He further stated that he is in charge of a team that personally goes out and recruits and trains agents to sell Metro Teleconnect's service. According to the testimony, Metro Teleconnect does not utilize telemarketers. Mr. Smith testified that the Company does not intend to market its services in South Carolina using any other names such as D/B/As. The testimony further reveals that Metro Teleconnect has never been the subject of an investigation by a state regulatory body or by the Federal Communications Commission. Mr. Smith testified that Metro Teleconnect was negotiating an interconnection agreement with BellSouth at the time of hearing.

As to Metro Teleconnect's customer service, Mr. Smith testified that Metro Teleconnect's toll-free number is (800) 695-6955. He said Elsie Alicia is the Company's customer service contact person. Mr. Smith also offered that Metro Teleconnect direct bills every customer, providing notice of when payment is due and when service may be

in jeopardy if the account is not paid. He said Metro Teleconnect's company name and toll-free telephone number appear on the customer's monthly bill.

Smith testified that Metro Teleconnect's team of qualified personnel has significant experience in performing the technical functions necessary to provide local exchange service. He said the top management team has remained in place during the past four years. Chad Hazam is the Company's President. The record states that Mr. Hazam has significant experience in the telecommunications business. The record further reveals that Mr. Hazam founded Metro Teleconnect (formerly Cellular Rentals, Inc.) which was the first cellular reseller to interface directly with a cellular switch. Additionally, the record states that Metro Teleconnect began reselling local telecommunications services in Pennsylvania in 1997 and has since expanded Company operations into over twenty states. Mr. Hazam is a graduate of the University of Pennsylvania and studied business and economics at the Wharton School. He also holds a law degree from George Washington Law School. Karis Lewellen-Hazam is Vice President and a co-founder of Metro Teleconnect. She oversees the operations of the Company and is involved in marketing, customer care and carrier relations. She graduated from Houghton College with a Bachelor of Arts in Chemistry and a minor in Math. She also attended business school in Rochester, New York, where she was certified in computer programming. Jerry Bankes is Chief Financial Officer. He previously was Controller and an owner of "Pretzel Time" stores and was involved with Mr. Hazam in Family Rentals which was sold to Renters Choice in May of 1997. Mr. Bankes then became Controller of Metro Teleconnect. He graduated from Penn State University in 1991 with a Bachelor's degree in professional accounting. Mr. Smith testified he is a graduate of the University of Texas and has been working with Mr. Hazam since 1983. Mr. Smith said he was involved with the start-up of Metro Telecommunications, called Cellular Rentals, Inc. at its inception.

Regarding the Company's financial condition, Smith testified that Metro Teleconnect is financially qualified to provide resold local exchange telecommunications services in South Carolina. According to the record, the Company has access to the financing and capital necessary to conduct its telecommunications operations. Mr. Smith added that Metro Teleconnect was profitable at the end of 2001 and has just completed a successful independent audit which shows the Company was also profitable during the last fiscal year. Further, Mr. Smith stated that Metro Teleconnect has a regional bank that has guaranteed loans based on the Company's financial statements and has provided a sizable line of credit to the Company.

In addition, Metro Teleconnect requested that the Commission regulate its local exchange telecommunications services under the flexible regulatory treatment approved by Order No. 98-165 in Docket No. 1997-467-C. Specifically, Metro Teleconnect requested that the Commission adopt for Metro Teleconnect a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, Metro Teleconnect requested that its tariff filings be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filings, in which case such tariff filings would be suspended pending further

Order of the Commission, and that any tariff filing will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

Metro Teleconnect requested a waiver of S.C. Code Ann. Regs. 103-631 (1976) so that the Company will not be required to publish local exchange directories. According to the record, Metro Teleconnect will make arrangements with the incumbent local exchange carriers whereby the names of Metro Teleconnect's customers will be included in the directories published by the incumbent local exchange carriers. Metro Teleconnect also requested a waiver of the 26 S.C. Code Regs. 103-610 which requires that a Company's books and records be kept in this state. Metro Teleconnect wishes to keep its books and records at its principal place of business in Pennsylvania. The Company also maintains its books of accounting in accordance with Generally Accepted Accounting Principles (GAAP). According to the record, Metro Teleconnect does not possess the detailed cost data required by the Uniform System of Accounts (USOA), nor does it maintain detailed records on a state-specific basis. Therefore, Metro Teleconnect requests to be exempt from any USOA requirements of the Commission.

The testimony reveals Metro Teleconnect's presence in South Carolina as a telecommunications service provider will have a positive effect on the public interest. Smith testified that Metro Teleconnect's telecommunications operations make local exchange telephone services available to customers who, for the most part, do not qualify to do business directly with ILECs. The testimony reveals that Metro Teleconnect provides a valuable service to these customers. Smith also testified that Metro Teleconnect does not compete with ILECs for customers; the Company serves customers

that LECs, for a variety of reasons (financial and otherwise), cannot or do not serve.

According to Smith, Metro Teleconnect's competition for customers is with other competitive local exchange carriers, and that competition is based on value conscious pricing and high quality customer service.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

# FINDINGS OF FACT

- 1. Metro Teleconnect is organized as a corporation organized under the laws of the State of Pennsylvania and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina.
- 2. Metro Teleconnect wishes to provide local exchange services within the State of South Carolina.
- 3. The Commission finds that Metro Teleconnect possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2001).
- 4. The Commission finds that Metro Teleconnect's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2001).
- 5. The Commission finds that Metro Teleconnect will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2001).

- 6. The Commission finds that Metro Teleconnect will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2001).
- 7. The Commission finds that the provision of local exchange service by Metro Teleconnect "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 2001).

# **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Metro Teleconnect to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between Metro Teleconnect and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order, Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, Metro Teleconnect may not provide any local service to a customer located in a rural incumbent LEC's service area, unless or until Metro Teleconnect provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the

implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from Metro Teleconnect that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by Metro Teleconnect in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. Metro Teleconnect shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Metro Teleconnect's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C.

Specifically, the Commission adopts for Metro Teleconnect's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Metro Teleconnect's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any

such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

- 3. Metro Teleconnect shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.
- 4. Metro Teleconnect shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.
- 5. Metro Teleconnect shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Metro Teleconnect shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at <a href="https://www.psc.state.sc.us/forms">www.psc.state.sc.us/forms</a>. This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at <a href="https://www.psc.state.sc.us/forms/default.htm">www.psc.state.sc.us/forms/default.htm</a>.
- 6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is

more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Metro Teleconnect to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Metro Teleconnect shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Metro Teleconnect shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at <a href="https://www.psc.state.sc.us/forms">www.psc.state.sc.us/forms</a>. This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. Metro Teleconnect shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2001).

- 8. Metro Teleconnect shall file annually the Intrastate State Universal Service Fund (USF) worksheet due August 15 for calendar and fiscal year ending companies.
- 9. Metro Teleconnect requested waivers from certain Commission regulations and requirements. Specifically, Metro Teleconnect requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories, and (2) the requirement found in Rule 103-610 that all books and records be kept within the State of South Carolina. The Company also requested permission to exempt it from any requirement to maintain books and records in compliance with the USOA. The Commission grants the request for waiver from the requirement to publish directories as Metro Teleconnect has indicated that it will contract with the incumbent local exchange company to include the customers of Metro Teleconnect in the directory listing of the ILEC directory. The Commission grants the Company's request to keep its books and records at its headquarters in Pennsylvania. Further, the Commission grants

Metro Teleconnect's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA.

- The Federal Communications Commission (FCC) in July of 2000 required 10. all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at www.psc.state.sc.us/forms.
- 11. Metro Teleconnect is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director

(SEAL)

Order Exhibit 1 Docket No. 2002-140-C – Order No. 2002-576 August 14, 2002

#### **BEFORE**

# THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

Docket No. 2002-140-C

Re:	Application of Metro Teleconnect Companies,	)	
	Inc. for a Certificate of Public Convenience	)	
	and Necessity to Provide Resold Local	)	
	Exchange Telecommunications Services in	)	STIPULATION
	the State of South Carolina	)	
		_ )	

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Metro Teleconnect Companies, Inc. ("Metro Teleconnect") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Metro Teleconnect's Application. SCTC and Metro Teleconnect stipulate and agree as follows:

- 1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Metro Teleconnect, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met
- 2. Metro Teleconnect stipulates and agrees that any Certificate which may be granted will authorize Metro Teleconnect to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
- 3. Metro Teleconnect stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
- 4. Metro Teleconnect stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area,

unless and until Metro Teleconnect provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Metro Teleconnect acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

- 5. Metro Teleconnect stipulates and agrees that, if Metro Teleconnect gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Metro Teleconnect will not provide service to any customer located within the service area in question without prior and further Commission approval.
- 6. Metro Teleconnect acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.
- 7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Metro Teleconnect, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

- 8. Metro Teleconnect agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.
- 9. Metro Teleconnect hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 20 day of June ,

Metro Teleconnect Companies, Inc.:

South Carolina Telephone Coalition:

M. John Bowen, Jr.

Margaret M. Fox

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Attorneys for the South Carolina Telephone Coalition

### ATTACHMENT A

# South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.

Chesnee Telephone Company

Chester Telephone Company

Farmers Telephone Cooperative, Inc.

Ft. Mill Telephone Company

Heath Springs Telephone Company Inc.

Home Telephone Company, Inc.

Lancaster Telephone Company

Lockhart Telephone Company

McClellanville Telephone Company

Norway Telephone Company

Palmetto Rural Telephone Cooperative, Inc.

Piedmont Rural Telephone Cooperative, Inc.

Pond Branch Telephone Company

Ridgeway Telephone Company

Rock Hill Telephone Company

Sandhill Telephone Cooperative, Inc.

St. Stephen Telephone Company

West Carolina Rural Telephone Cooperative, Inc.

Williston Telephone Company

# **BEFORE**

# THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

Docket No. 2002-140-C

Re:	Application of Metro Teleconnect Companies,	)		
	Inc. for a Certificate of Public Convenience	)		
	and Necessity to Provide Resold Local	)	CERTIFICATE OF	
	Exchange Telecommunications Services in the State of South Carolina	)	SERVICE	
		)		
		)		

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Faye A. Flowers, Esquire Parker, Poe Adams & Bernstein, L.L.P. Post Office Box 1509 Columbia, South Carolina 29202-1509

ElizaBeth A. Blitch, Legal Assistant

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(803) 799-9800

July 2, 2002

Columbia, South Carolina